

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

SAMANTHA PETTINGILL, JULIE  
PETTINGILL, GENE PETTINGILL, JULIE  
PETTINGILL, as guardian *ad litem* for C. P.  
and T. P., minors, and SOCIETY FOR PET  
ADOPTION, RESCUE, AND EDUCATION,  
INC., a Delaware nonprofit corporation,

Plaintiffs,

v.

JOHN CALDWELL, in his official and  
individual capacities, JOHN SAVILLE, in his  
official and individual capacities,  
DELAWARE SOCIETY FOR THE  
PREVENTION OF CRUELTY TO  
ANIMALS, a Delaware corporation

Defendants.

C.A. No. 05-224 JJF

JURY TRIAL DEMANDED

**MOTION OF OBERLY, JENNINGS & RHODUNDA, P.A.  
TO WITHDRAW AS COUNSEL FOR PLAINTIFFS**

COMES NOW, Charles M. Oberly, III, Esquire and Karen V. Sullivan, Esquire of Oberly, Jennings & Rhodunda, P.A. ("Counsel") and move this Court pursuant to Rule 83.7 of the Local Rules of Civil Practice and Procedure of the United States District Court for the District of Delaware and Rule 1.16(b)(4) & (6) of the Delaware Lawyers' Rules of Professional Conduct for an Order allowing withdrawal as counsel. In support of this motion, Counsel states as follows:

1. Counsel filed this action on behalf of Plaintiffs on April 15, 2005;
2. The parties have engaged in significant amounts of discovery and in extensive settlement negotiations;

3. The Plaintiffs insist upon a course of action in the litigation with which Counsel have a fundamental disagreement. Counsel advised the Plaintiffs that Counsel would seek an Order allowing withdrawal if they continued to insist upon taking this course of action. Counsel provided the Plaintiffs until December 14, 2006 at 5:00 p.m. to notify Counsel that they do not desire to pursue the course of action with which Counsel have a fundamental disagreement. Plaintiffs, through Plaintiff Samantha Pettingill, have notified counsel by email that all plaintiffs have received, read, and understand a letter written by counsel dated December 13, 2006, which outlined counsel's concerns and reasons for seeking withdrawal. Plaintiffs response, while not specific, clearly evidences that plaintiffs and counsel are in fundamental disagreement over factual issues and other matters;

4. Moreover, the representation has been rendered unreasonably difficult by the Plaintiffs repeated inability to provide requested information on a timely basis and repeated cancellations of meetings, depositions and examinations;

5. Rule 1.16(b)(4) of the Delaware Rules of Professional Conduct allows an attorney to withdraw from representation of a client if he insists on taking a course of action with which the attorney has a fundamental disagreement. Rule 1.16(b)(6) allows an attorney to withdraw from representation of a client if the representation has been rendered unreasonably difficult by the client. Both are applicable here;

6. Counsel's withdrawal will not have a material adverse effect on the Plaintiffs. Concurrently with the filing of this motion, the parties have filed a stipulation staying proceedings until such time as the Court decides the motion to withdraw and, if granted, for 60 days thereafter to allow the Plaintiffs an opportunity to retain new counsel or determine to proceed *pro se*.

7. Defendants do not oppose this motion.

**WHEREFORE**, the Counsel respectfully requests that the Court enter the attached proposed Order allowing Counsel to withdraw.

OBERLY, JENNINGS & RHODUNDA, P.A.

/s/ Charles M. Oberly, III

Dated: December 18, 2006

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